

CHILD ABUSE REPORTING . . . AND YOU



STATE OF CALIFORNIA
Arnold Schwarzenegger, Governor
HEALTH AND HUMAN SERVICES AGENCY
S. Kimberly Belshé, Secretary
DEPARTMENT OF SOCIAL SERVICES

WHAT HAPPENS WHEN A REPORT IS MADE





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This pamphlet has been prepared for the people of California, who, concerned about children, need information about what to do when they become aware of child abuse and neglect.

Most people who come into regular contact with children through their jobs, such as teachers or doctors, are required by law to report all known or suspected instances of child abuse. The law gives clear rules for how these "mandatory reporters" are to report child abuse. However, most people are not mandated reporters and are not sure what to do when they become aware of child abuse. This pamphlet is a brief guide to child abuse reporting in California. It is designed to answer some of the most frequently asked questions.

This pamphlet provides general information about California's Child Abuse Reporting Law and Child Welfare Services. It is not intended to be and should not be considered legal advice. In the event there are questions about a specific case, the advice of the local child protection agency or competent legal counsel should be sought.

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WHAT IS CHILD ABUSE?

Under California law,
child abuse is a crime.

Children need protection because they are vulnerable and often unable to speak for themselves. The California Child Abuse Reporting Law, along with other state laws, provides the legal basis for action to protect children and to allow intervention by public agencies if a child is maltreated.

California law defines child abuse as any of the following:

- A child is physically injured by other than accidental means
- A child is subjected to willful cruelty or unjustifiable punishment
- A child is abused or exploited sexually
- A child is neglected by a parent or caretaker who fails to provide adequate food, clothing, shelter, medical care or supervision.

Any child may be victimized. Child abuse crosses all socioeconomic, ethnic, cultural, occupational, religious and age groups. It can occur in the child's home or outside the family. Tragically, it happens most often at home, and usually the abuser is known to the child. Generally, the abuser is a caretaker. A caretaker can be a parent, stepparent, relative or a child care provider.



WHY SHOULD I REPORT CHILD ABUSE?

Sometimes people are afraid to get involved in a child abuse situation. Ignoring any problem will not make it go away or get better. Ignoring child abuse may result in serious injury or even the death of a child.

All children have the right to grow up in a safe environment. Child abuse, in all its forms, has a more long-lasting and negative effect on children, families and the whole community than most people realize. At its worst, its destructive impact haunts its victim through life and can prevent the child from becoming a productive adult. Parents who were mistreated as children will often mistreat their children. The National Center on Child Abuse and Neglect reports that over 2,000 children die each year due to abuse or neglect. Reporting child abuse is a first step in stopping this devastating cycle.

People who hurt children usually need help to change their behavior. Many only get help after someone calls attention to the fact they need it, by reporting the abuse of their child.

WHAT WILL HAPPEN TO ME IF I MAKE A REPORT?

Anyone who reports known or suspected child abuse is protected by the law from civil or criminal liability, unless it can be proven the report was false **and** the person who made the report knew it was false. Any person, except a mandated reporter, who reports child abuse may remain anonymous. (*Some groups of persons are specified in law as mandated reporters and are required to give their names. They are also provided unqualified immunity from civil liability.*) However, it is helpful to give your name and telephone number to the social worker or law enforcement officer taking the report, in the event he or she needs to obtain more information later.

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STATEWIDE RESOURCES

Office of Child Abuse Prevention (OCAP)
State Department of Social Services
744 P Street, M.S. 19-82
Sacramento, CA 95814
(916) 445-2771

Prevent Child Abuse California
926 J Street, Suite 717
Sacramento, CA 95814
(916) 498-8481

California Child Care Resource and Referral Network
111 New Montgomery Street, 7th Floor
San Francisco, CA 94105
(415) 882-0234

Parents Anonymous
675 W. Foothill Blvd., Suite 220
Claremont, CA 91711
(909) 621-6184

Parents United, Inc./EMQ (Eastfield Ming Quong)
Parents United/Daughters and Sons United
Adults Molested as Children United
232 E. Gish Road
San Jose, CA 95112
(408) 453-7616

NATIONAL RESOURCES

National Clearinghouse on Child Abuse and Neglect (NCCAN)
330 C Street SW
Washington, D.C. 20447
(800) FYI-3366
Web Site: <http://www.calib.com/nccanch>

Prevent Child Abuse America
200 South Michigan Avenue, 17th Floor
Chicago, Illinois 60604
(312) 663-3520
Web Site: <http://www.childabuse.org>



HOW DOES CHILD ABUSE GET REPORTED?

A report is made by telephoning one of the local child protective agencies and talking with them about the child's situation. A child protective agency is either the county social services department (*in a few counties it is the probation department*) or the local law enforcement agency (*police or sheriff*). Social services departments provide child welfare services in California. Except for situations involving allegations of general neglect, child protective agencies are required to cross-report to each other. "Cross-reporting" means that the different agencies inform each other of reports so that each agency can take appropriate steps to respond. "General neglect" means the negligent failure of a person to provide adequate food, clothing, shelter, medical care or supervision for a child under that person's care or custody. General neglect is handled only by the social services department.



HOW DO I KNOW WHEN TO REPORT CHILD ABUSE?

Reporting should be done when a person either knows or suspects that a child has been or is in danger of abuse or neglect. Hard proof is not needed to make a report. However, reports must be made in good faith. Use common sense. A report of child abuse is serious and may have a lifelong impact on the child and his or her family. Never make a false or malicious report. If you are in doubt at all about whether to report a particular situation, telephone the emergency response intake worker at your local child protective agency in the county social services or probation department and discuss the situation.



WHAT HAPPENS AFTER A REPORT IS MADE?

When receiving a report about suspected child abuse or neglect, the social worker or law enforcement officer on duty will speak to the person making the report in order to obtain information about the child. The kind of information needed includes answers to such questions as: What type of abuse has occurred? Who or what caused the abuse? Most importantly, the person receiving the call will need to ask: "Is the child still in a dangerous situation or in need of medical care?"

No two reports are handled in exactly the same way. Decisions by all the people involved are based on each child's situation. Even reports on two children in the same family may be handled differently; the agency receiving the report will determine how to proceed, based on the information available. What the response will be and how quickly it will be made depends on the seriousness of the events reported and the situation the child faces. Where it appears that the child is in danger, the response will be immediate. Where there is less risk involved, it may be three to ten days before action is taken. Not all reports are serious enough to require the assistance of the law enforcement agency. In these events, the family may be contacted only by the local social service department. An in-person response may not be made when the county social services department, based upon an assessment, determines that one is not appropriate.

The investigations by the child welfare services agency and law enforcement are conducted separately. The child welfare agency will concern itself with the welfare of the child and family. Law enforcement efforts will focus on obtaining evidence to determine whether a crime has been committed and by whom.

A SAMPLE OF COMMUNITY RESOURCES

Parents Anonymous. Self-help groups for potentially abusive or abusive parents. Facilitators consist of a professional and a formerly abusive parent. This service, plus child care during group sessions, are free. Transportation referrals are also provided.

Parents United. Self-help groups for sexually abusive families. Consists of groups for offenders, children, and mothers. Also have groups for Adults Molested as Children (AMAC). Comprehensive child sexual abuse program.

Parental Stress Hotlines. Provide 24-hour crisis telephone assistance for persons under stress. Primarily telephone counseling, but can also provide home visiting program and respite care. Usually offer parent rap groups and other services.

Respite Care Programs. Licensed homes which provide care for children when their parents "need a break." Not a baby-sitting service. Designed for high-risk parents.

Emergency Family Care. In-home based services. Workers literally "move in" with the family to provide concrete services. Frequently work with neglectful parents whose children might be removed without this service.

Parent-Infant Bonding (Perinatal Programs). Provides parent education designed to help new parents to provide for children's needs.

Child Abuse Councils. Provide information and referral; educational services including book and film library. Usually are multidisciplinary in nature, and help coordinate service delivery. Provide visibility to the problem of child abuse.

Parent Education Classes. Designed to help parents gain better understanding of child development, and to learn skills for disciplining their children in a safe way.

Parent Discussion Groups. Provide a forum in which parents may discuss child-rearing problems, gain peer support and minimize their isolation.

Community Mental Health Departments. Provide low-fee therapeutic services to families and children. Available in every community. Frequently serve a broad range of abusive families.

Child Care Resource Centers. Provide valuable child care information to parents who may be overwhelmed by the demands of parenting. Information and referral. Education,.

Private Mental Health Clinics/Therapist Groups. There are many private therapists who now specialize in working with child abuse cases. Child abuse councils or child protective agencies are usually familiar with good referral possibilities.

Family Service Agencies. Many of these agencies have taken a leadership role in child abuse prevention/treatment services. Therapeutic services are available on a sliding fee scale.



HOW CAN I HELP PREVENT CHILD ABUSE?

There are several things you can do to prevent child abuse. Learn more about child abuse and how it is treated. Become active in your community's efforts to reduce child abuse. Be supportive and helpful to families having problems. Don't ignore child abuse. **Report** it to the proper authorities. If you or any member of your family needs help coping with children, don't let your pride keep you from asking for it. Social service agencies staff are there to help you and they understand that it is a difficult job to be a parent.

WHAT DOES THE SOCIAL WORKER DO?

The social worker interviews the child and family to evaluate the situation. The worker's primary responsibility is the protection of the child.

Often, parents or others who mistreat children are beset by problems which overwhelm them. Abusive parents are frequently very lonely and have few friends. Many of these parents report that they were poorly treated by their own parents and that their childhoods were unhappy. These parents may not be able to handle the normal stresses of raising children without help. Because they were denied safe, secure lives as children, they may not understand the behavior of a child who is experiencing a "normal" childhood. As a result, they may have unrealistic expectations about their child's behavior.

The social worker's responsibility is to offer services to help reduce the problems of the family and child. These services can include such things as counseling, referrals to self-help groups or assistance in obtaining medical care, emergency shelter, transportation or a temporary in-home caretaker. The social worker's activities are designed to protect children and enable families to stay together whenever possible.

WHAT DOES THE LAW ENFORCEMENT OFFICER DO?

The law enforcement officer also has a primary responsibility to protect the child. The officer will interview the parent(s) and child and gather information based on the interviews, physical evidence and information from other sources such as medical and school records. Usually the parent or caretaker is neither arrested nor criminally charged in a child abuse case. This is because the goal of intervention is to protect the child from further maltreatment and to help the parent(s) change their behavior. However, there are instances of serious abuse and crimes when the parent(s) or caretaker(s) are arrested and the case is referred by law enforcement to the district attorney for criminal prosecution.

DOES A REPORT MEAN A CHILD WILL BE TAKEN AWAY?

Most reports of child abuse do not result in children being removed from their families. The first goal is to enable the child to remain safely in his or her own home. If this is not possible, the social worker must protect the child's safety by placing him or her in foster care. If it is necessary in order to protect the child, the agency is also authorized to arrange for emergency temporary foster care.



ARE CHILDREN TAKEN AWAY FOREVER?

California has strict rules about removal of children from their families. However, because children are vulnerable, the law also affords them significant protection. Peace officers are authorized to take an endangered child into protective custody, and to place the child in the care of the social service department. This initial, emergency removal is allowed by law, without a warrant, for up to 48 hours, not counting holidays and weekends. Should the child protection agency decide the child cannot be safely returned home, the agency must formally request the Juvenile Court to hold a hearing to determine if continued removal is necessary. This is accomplished by submitting a dependency petition outlining the allegations that brought the child to the attention of the child protection agency.



WHAT HAPPENS IF I AM FALSELY ACCUSED OF ABUSE?

False reporting can occur in child abuse cases. Generally it is adults, rather than children, who make false reports. Such reports may be motivated by persons wanting revenge, may simply be mistakes or may occur for other reasons. If you are named in a report that is false, the most helpful thing you can do is to provide the child protective services agencies with the information needed to establish your innocence.

WHAT DOES THE COURT DO?

In California, more than one type of prosecution may result from a report of child abuse or neglect. For example :

• JUVENILE COURT

When it is a parent or guardian or other person in the child's home who appears to bear the responsibility for the abuse or neglect, the issues of whether the child should be removed from the home and of whether services should be ordered in the interest of the child and family are heard in the Juvenile Court. The proceedings are confidential, and ordinarily only parents, involved family members and others whose presence is required by the court will be in the courtroom. Since the primary purpose of these proceedings is the protection of the child, the legal standards and rules of evidence differ from those in criminal court, where the defendant's constitutional rights are foremost. The Juvenile Court is a department of the Superior Court.

• CRIMINAL COURT

All criminal prosecutions are initiated in Municipal Court. Misdemeanor cases will remain in that court, but felony cases will frequently wind up in Superior Court. The issue in a criminal prosecution is whether it can be proved beyond a reasonable doubt that a particular person abused or neglected the child. The same incident of maltreatment may lead to both a dependency case and a criminal case.

• ADMINISTRATIVE HEARING

If a child is abused or neglected in a child day care facility, or a foster home or other residential placement, a proceeding may be brought to revoke the facility's license, and/or to exclude a perpetrator from employment in such a facility. If the case goes to hearing, an administrative law judge presides. The legal standards and rules of evidence are similar to the dependency case rather than the criminal case, since the emphasis is on the health, welfare and safety of children. A similar proceeding can result from maltreatment by a schoolteacher or other licensed or certified professional. The same maltreatment may result in both an administrative proceeding and a criminal case. On occasion, the same maltreatment may lead to both an administrative proceeding and a dependency case. Rarely, all three types of case may arise from the same incident.



WHAT HAPPENS IF THE ABUSER IS SOMEONE OUTSIDE THE HOUSEHOLD?

A report about an abuser not living in the child's home is made in the same way as any other report. Once the child protective services agency determines that the child is not subjected to harm within the home and the parents did not contribute to the abuse or neglect, referrals for counseling or medical care can be made and the case is closed by the social services or probation department. Law enforcement will conduct its own, separate criminal investigation. Charges may be filed and the abuser prosecuted. Suspected abuse or neglect in a child day care facility, or foster home or other residential facility, is referred to the appropriate community care licensing office or to county licensing, which investigates separately or in conjunction with the other investigating agencies. An administrative proceeding to revoke the facility's license and/or to exclude a perpetrator from employment in a facility may follow.

IN CASE OF CHILD ABUSE, WHAT CAN THE JUVENILE COURT DO?

The child protection agencies, acting on their own, can remove a child from his or her home for up to 48 hours. Subsequently, the Juvenile Court must be involved and decide if continued removal is necessary. In some instances, the social services department may initiate court proceedings on behalf of a child without the child being removed from the home. If the Juvenile Court determines a child has been abused, it can order the child to be placed under court jurisdiction and supervision. A decision will then be made on where the child will live.

1. The court may order the child to be supervised at home by the child welfare agency and the parents to participate in specific activities, such as counseling or a parent education class.
2. The court can remove the child from his or her home if it finds that:
 - ⇒ **There is substantial danger to the physical health of the child or the child is suffering severe emotional damage, and there are no reasonable means by which his or her physical or emotional health may be protected without removing the child from the parents' or guardians' home**
OR
 - ⇒ **The child indicates an unwillingness to return home, if he or she has been sexually molested by a person residing there**
OR
 - ⇒ **The child is left without provisions for his or her support**
OR
 - ⇒ **The parents or guardians are unwilling to have physical custody of the child**

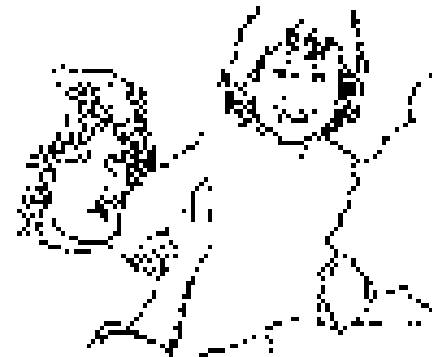
It is a very serious step for the Juvenile Court to order removal of children. Before the Juvenile Court can remove an abused child from his or her home, it has to make certain the child protective agency has done everything reasonable to prevent the need for this drastic action. The family is vitally important to society and the child's overall development. Child protection laws, while providing intervention, are designed to keep families together if this can be done safely.

WHAT HAPPENS IF THE COURT ORDERS REMOVAL OF A CHILD FROM HIS OR HER HOME?

Several options are available if the Juvenile Court decides it is necessary to remove a child from his or her home. The child may be placed with the other parent if the parents are separated or divorced, with relatives, or in a foster family home or group home. Where the child goes will depend on the child's needs. The court will order the parent(s) and the child protection agency providing child welfare services to work together to reunite the family as quickly as possible. Court hearings must be held at least every six months if a child is removed, to make sure all possible efforts are being made to bring the child safely back home. They may be held more often if needed.

WHAT HAPPENS IF A CHILD IS NOT RETURNED TO HIS OR HER PARENT(S)?

If needed in order to provide a stable, permanent home, and if it is not possible to return a child safely to his or her parents, parental rights may be terminated. A hearing to make a determination regarding the future status of the child must be conducted no later than 12 months after the original dispositional hearing in which the child was removed from parental custody.



IF CHILDREN ARE PLACED IN FOSTER CARE, DO PARENTS SEE THEIR CHILDREN?

Yes! Parents are expected to visit regularly, except in unusual circumstances. The parent-child relationship must be maintained if at all possible. It is very hard for children to be separated from their parents, even when the parents have harmed the child. No one can easily replace a child's parents.